



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 16, 1995

Mr. Pat Cain
Assistant Attorney General
General Counsel Division, MC-018
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR95-279

Dear Mr. Cain:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29342.

The Office of the Attorney General (the "OAG") received an open records request from an attorney for "a copy of all complaints and other public documents relating to my client, PMI Corp." You have submitted to this office as responsive to the request several citizen complaints and intra-office memoranda. You contend that these documents are excepted from required public disclosure by section 552.103(a) of the Government Code.

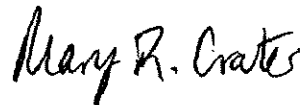
To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance, you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.¹

¹Because we resolve your request under section 552.103, we need not address the other exceptions you raised.

In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, e.g., through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a).² We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/RWP/rho

Ref.: ID# 29342

Enclosures: Submitted documents

cc: Ms. Billie E. Breedlove
Breedlove and Bensey
6420 Richmond, Suite 312
Houston, Texas 77057
(w/o enclosures)

²Consequently, we assume that the OAG has released to the requestor both of the attachments to the OAG memorandum dated July 8, 1994.